

Introduced by Senator Escutia

February 22, 2005

An act relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 870, as introduced, Escutia. Air quality: violations.

Existing law vests local and regional authorities, defined as the governing body of any city, county, or air pollution control district or air quality management district with the primary responsibility for control of air pollution from all sources other than vehicular sources.

This bill would make findings and declarations regarding the enforcement of air pollution control measures by those entities, and would declare the intent of the Legislature to enact legislation that will provide for mandatory minimum penalties in cases of serious and chronic stationary source violations of air pollution control laws, and that will allow a community-based air pollution control program to receive moneys derived from fines levied against those violators.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) In 1997, the United States Environmental Protection
- 4 Agency (EPA) conducted an audit that found that air district
- 5 enforcement actions against major stationary source violators
- 6 were not always sufficient when compared to EPA's enforcement
- 7 guidance.

1 (2) The EPA concluded that districts failed to do all of the
2 following:

- 3 (A) Escalate enforcement actions for repeat violations.
- 4 (B) Resolve enforcement actions in a timely manner.
- 5 (C) Issue penalties consistent with the gravity of the violation.
- 6 (3) In a 2001 followup report to the audit, the Legislative
7 Analyst's Office (LAO) found that stationary source regulation
8 could be improved if the State Air Resources Board (ARB)
9 exercised more effective oversight of the local districts.

10 (4) The LAO made all of the following findings:

11 (A) The ARB has not adopted a statewide enforcement policy
12 to guide local district enforcement actions, despite its authority to
13 do so.

14 (B) The ARB takes little action when a district disregards
15 statutory reporting requirements.

16 (C) The ARB lacks data to assess the extent of inconsistent
17 and ineffective district enforcement.

18 (D) The ARB devotes minimal staff to local program review
19 and has not sought budgetary or legislative remedies to improve
20 its efforts in local program review.

21 (5) Furthermore, the LAO report notes that variations in local
22 enforcement practices are due to all of the following:

23 (A) Relative latitude in establishing their own enforcement
24 policies.

25 (B) Inconsistent tracking of enforcement actions.

26 (C) Varying resources available for enforcement activities.

27 (6) In July of 2004, the Environmental Working Group
28 reported a clear and persistent pattern of violations of the federal
29 Clean Air Act in all of the following major California industries:

30 (A) Oil and chemical refining.

31 (B) Pulp and paper milling.

32 (C) Automobile manufacturing.

33 (D) Iron and steel manufacturing.

34 (E) Metal smelting.

35 (7) Although it is important for a district to have some
36 discretion to determine the most effective enforcement response
37 to a violation, it is also prudent to ensure that minimum penalties
38 be assessed to deter serious or chronic environmental violations.

39 (8) In addition, mandating minimum penalties for serious and
40 chronic stationary source violations could make local

1 enforcement actions more consistent by prescribing a statewide
2 standard for enforcement.

3 (9) Without minimum penalties for serious or chronic
4 environmental violations, some of California's major polluting
5 industries may find it more cost-effective to violate
6 environmental law, rather than control pollution.

7 (b) It is the intent of the Legislature to enact legislation that
8 will provide for mandatory minimum penalties in cases of serious
9 and chronic stationary source violations of air pollution control
10 laws, and that will allow a community-based air pollution control
11 program to receive moneys derived from fines levied against
12 those violators.